

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Kinderhook
Town
~~Village~~

Local Law No. 1 of the year 2021

A local law amending sections of Chapter 250 of the Town of Kinderhook Code

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Kinderhook as follows:
Town
~~Village~~

PURPOSE AND INTENT

The Town Board of the Town of Kinderhook hereby adopts amendments to Chapter 250 of the Town of Kinderhook Code in order to regulate and ensure orderly land use development within the Town of Kinderhook in such a manner that does not harm public health, welfare and safety.

AUTHORIZATION

The Town Board of the Town of Kinderhook enacts this Local Law under the authority granted by:

1. Article IX of the New York State Constitution, §2(c) (6) and (10).
2. New York Municipal Home Rule Law §10.
3. New York Town Law, Article 16 (Zoning).

ENACTMENT

Be it enacted by the Town Board for the Town of Kinderhook that Chapter 250 of the Kinderhook Town Code be hereby amended as follows:

Amend §250-39(D). DEVELOPMENT STANDARDS FOR SOLAR FARMS

Applications seeking a special use permit and site plan approval pursuant to §250-50 of the Kinderhook Town Code for development of a Solar Farm (as defined in Article II of the Zoning Code), shall also comply with the following development standards.

1. Applicant shall provide certification from a New York State Licensed Engineer that: (i) the solar energy ground equipment to be utilized in the Solar Farm is sufficiently installed and anchored to prevent flotation, collapse or lateral movement; and (ii) the design and installation of the solar energy ground equipment meets any and all applicable provisions of New York State law, regulations and codes including, but not limited to: the Building Code; Commercial Code; National Electric Code; Fire Code; Plumbing Code; Mechanical Code; Fuel Gas Code; Energy Conservation Construction Code; and Property Maintenance Code.
2. Applicant shall demonstrate that all proposed construction activities related to the solar energy equipment meet all applicable provisions of New York State law, regulations and codes including, but not limited to: the Building Code; Commercial Code; National Electric Code; Fire Code; Plumbing Code; Mechanical Code; Fuel Gas Code; Energy Conservation Construction Code; and Property Maintenance Code.
3. Applicant shall demonstrate that the Solar Farm is configured in such a manner as to provide sufficient ingress, egress, and maneuverability for fire trucks and emergency vehicles to the satisfaction of the Fire Chief of the Fire Protection District wherein the Solar Farm is proposed.
4. Applicant shall submit a site plan application in compliance with Article VII of the Zoning Code (Site Plan Review) to the Kinderhook Planning Board, which shall include a Site Plan setting forth the dimensions of all solar energy equipment, a scaled plot plan showing the location of any existing structures and the location of the solar energy equipment to be constructed, as well as such other information as the Planning Board shall deem relevant to its review of the application.
5. The maximum acreage that a Solar Farm may occupy in any zoning district within the Town of Kinderhook shall be five (5) acres.
6. The maximum lot coverage permitted for a Solar Farm in any zoning district within the Town of Kinderhook shall be 50% lot coverage.

7. All hardware, apparatus and equipment associated with a Solar Farm shall have a minimum front yard setback of one thousand (1,000) feet, to be measured from the road edge in the case of a user road and to be measured from the property line in the case of a deeded highway.
8. All hardware, apparatus and equipment associated with a Solar Farm shall have a minimum side yard setback and rear yard setback of one thousand (1,000) feet, to be measured from the side and rear property lines.
9. Any support structures designed and/or constructed to position, hold and/or otherwise support any ground mounted solar energy equipment shall not cause the top edge of the solar panel to be higher than twenty (20) feet off the ground.
10. No Solar Farm shall be designed, constructed or placed upon land containing “prime farmland soils” and/or “soils of statewide importance” as classified by the Natural Resources Conservation Service (NRCS) and set forth on the Soil Survey Geographic (SSURGO) Database for Columbia County, NY.
11. Any power utility lines necessary to carry electricity generated from the proposed Solar Farm to the grid shall be installed underground, with the exception that the applicant shall be permitted three (3) utility poles to transition the power from the solar farm to the electric grid. This provision shall apply to utility lines proposed to be located on the applicant’s Solar Farm site and/or utility lines proposed to be located in any utility easement adjacent to the applicant’s site.
12. The applicant shall demonstrate sufficient screening, including undergrowth and overgrowth, of the hardware, apparatus and equipment associated with a Solar Farm so as to substantially screen and block the Solar Farm from being seen in all seasons from all abutting properties and public roadways. Plantings shall include plants, trees, bushes, and other vegetation suitable so as to accomplish the requisite screening of the solar farm from abutting properties and public roadways. The applicant shall provide a complete landscaping plan with its application for a special use permit, setting forth the type, size, number and placement of all plants, trees, bushes and other vegetation. The applicant shall be responsible for maintaining all planted screening while the solar equipment is in place and replacing any plant material that dies and/or is otherwise ineffective in providing the requisite screening.
13. The applicant shall provide such other reasonable information as may be requested by the Planning Board in review of the special use permit and site plan application.
14. If the solar energy equipment ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove all such equipment by no later than 90 days after the end of the twelve-month period. In the event the property owner fails to remove the equipment, the Town of Kinderhook may institute a proceeding to have the equipment removed and charge the costs of said removal, including reasonable attorney’s fees, as a lien against the property on the property owner’s Town tax bill.

Amend §250 Attachment – Use Regulation Table

The Use Regulation Table is hereby amended to create a Row entitled “Solar Farm”, to be designated a Permitted Use subject to a special use permit and site plan approval in the AR, R-2, R-3, H, B-1, B-1A, I-1 and MHP Zoning Districts, and for the symbol “X*” to be placed in the column for each of the aforesaid zoning districts.

Amend §250 Attachment – Use Regulation Table

The Use Regulation Table is hereby amended to modify the Row entitled “Bank” to be designated a Permitted Use subject to site plan approval in the B1 and B1-A Zoning Districts and for the symbol “P*” to be placed in the column for each of the aforesaid districts.

SEVERABILITY

In the event that any word, phrase or part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not effect the remainder of said local law which shall remain in full force and effect.

EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State, except that it shall not apply to any application for a Solar Farm pending before the Town of Kinderhook Planning Board that has been deemed substantially complete and scheduled for a Public Hearing.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2021 of the Town of Kinderhook was duly passed by the Town Board on May, 2021, in (Name of Legislative Body) accordance with the applicable provisions of law.

2. (~~Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer.*~~)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____, 20____, and was (approved)(not approved)(repassed after _____ (Name of Legislative Body) disapproval) by the _____ and was deemed duly adopted on _____, 20____, _____ (Elective Chief Executive Officer*) in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____, 20____, and was (approved)(not approved)(repassed after _____ (Name of Legislative Body) disapproval) by the _____ on _____, 20____. Such local law was (general)(special)(annual) election held on _____, 20____, in accordance with the applicable provisions of law.

4. (~~Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.~~)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20____, and (approved)(not approved)(repassed after _____ (Name of Legislative Body) disapproval) by the _____ on _____, 20____. Such local law was subject _____ (Elective Chief Executive Officer*) to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

Hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, _____, became operative.

6. (County local law concerning adoption of Charter.)

Hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____, 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Kim Pinkowski, Town Clerk

(Seal)

Date: May __, 2021

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF COLUMBIA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature _____
Andrew B. Howard, Esq.
Title: Counsel

County _____
City of _____ Kinderhook _____
Town _____
Village _____

Date: May __, 2021